

EXHIBIT 3

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**KEITH REED, LISA DOLENCE,
ELIZABETH SCHENKEL, EMILY WINES,
AND MARK GARAN, individually and on
behalf of others similarly situated,**

Plaintiffs,

v.

**ALECTO HEALTHCARE SERVICES LLC,
and ALECTO HEALTHCARE SERVICES
WHEELING, LLC d/b/a OHIO VALLEY
MEDICAL GROUP and d/b/a OVMC
PHYSICIANS,**

Defendants.

Case No. 5:19-cv-00263-JPB

District Judge John Preston Bailey

Class Action

**DEFENDANT ALECTO HEALTHCARE SERVICES WHEELING LLC'S RESPONSES
TO PLAINTIFFS' FIRST SET OF REQUESTS FOR ADMISSIONS TO DEFENDANTS**

Defendant Alecto Healthcare Services Wheeling LLC ("AHSW") responds¹ to "Plaintiffs' First Set of Requests for Admissions to Defendants" as follows:

REQUESTS FOR ADMISSION

REQUEST NO. 1: Admit that, as of September 2, 2019, AHSW employed over 100 full-time employees working at the Ohio Valley Medical Center ("OVMC").

ANSWER: Admit.

REQUEST NO. 2: Admit that, as of September 2, 2019, AHSW employed over 100 employees, including part-time employees, who in the aggregate worked at least 4,000 hours per week, exclusive of overtime, at the Ohio Valley Medical Center ("OVMC").

¹ Defendant Alecto Healthcare Services LLC does not provide any response herein. Despite the use of the collective term "Defendants" in the title of the discovery and in the section titled "Definitions and Instructions," the Plaintiffs expressly only propounded these requests upon AHSW.

ANSWER: Admit.

REQUEST NO. 3: Admit that, as of the date that Executive Vice President Michael Sarrao drafted his September 2, 2019 letter to West Virginia Governor James C. Justice, AHSW employed over 750 individuals at OVMC.

ANSWER: AHSW admits only that as of August 25, 2019, it employed less than 750 individuals at OVMC.

REQUEST NO. 4: Admit that over 700 AHSW employees lost their employment as a result of the closure of OVMC.

ANSWER: Objection. AHSW objects that the phrase “lost their employment” is vague and ambiguous. For example, it is unclear whether this includes individuals who voluntarily resigned employment, left employment at OVMC to begin employment elsewhere, or retired. *See, e.g.,* 20 C.F.R. § 639.3(f) (definition of “employment loss” excludes “discharge for cause, voluntary departure, or retirement”). Subject to and without waiving said objection, and assuming “lost their employment” excludes discharge for cause, voluntary departure, voluntary resignation to start a new job, and/or retirement, AHSW denies.

REQUEST NO. 5: Admit that, as of September 2, 2019, OVMC operated at a single location, or group of contiguous locations.

ANSWER: Objection. Request No. 5 calls for a legal conclusion that is one of the ultimate issues of the case, namely whether OVMC constituted a single site of employment pursuant to 20 C.F.R. §693.3(i). *See, e.g., Hurley by Hurley v. Potomac Edison Co.*, No. 3:07CV14, 2008 WL 11344676, at *4 (N.D.W. Va. May 15, 2008) (“it is not a proper request for admission to request a

party to admit the truth of a legal conclusion”). To the extent a response is required, and subject to and without waiving said objection, AHSW admits.

REQUEST NO. 6: Admit that AHSW ordered the discontinuance of acute and medical services at Ohio Valley Medical Center as of 11:50 p.m. on September 4, 2019.

ANSWER: AHSW admits only that it suspended acute and emergency medical services at Ohio Valley Medical Center at 11:59 p.m. on September 4, 2019.

REQUEST NO. 7: Admit that Defendant Alecto Healthcare Services, LLC (“AHS”) directed AHSW to order the suspension of acute and medical services at Ohio Valley Medical Center as of 11:50 p.m. on September 4, 2019.

ANSWER: Denied.

REQUEST NO. 8: Admit that over 50 full-time AHSW employees at OVMC were terminated (other than a discharge for cause, voluntary departure, or retirement) within 30 days of September 4, 2019.

ANSWER: Denied.

REQUEST NO. 9: Admit that over 50 full-time AHSW employees at OVMC were terminated (other than a discharge for cause, voluntary departure, or retirement) prior to October 7, 2019.

ANSWER: Denied.

to the West Virginia State Dislocated Worker Unit on August 8, 2019 and that it suspended acute and emergency medical services at OVMC at 11:59 p.m. on September 4, 2019.

REQUEST NO. 19: Admit that AHSW did not provide the Office of the Mayor of Wheeling, West Virginia with 60 days' notice prior to ordering the discontinuation of acute and medical services at Ohio Valley Medical Center as of 11:50 p.m. on September 4, 2019.

ANSWER: Objection. Request No. 19 calls for a legal conclusion that is one of the ultimate issues of the case, namely whether AHSW provided timely notice pursuant to 29 U.S.C. § 2102. *See, e.g., Hurley*, 2008 WL 11344676, at *4. To the extent a response is required, and subject to and without waiving said objection, AHSW admits only that it provided WARN Notice to the Office of the Mayor of Wheeling, West Virginia on August 8, 2019 and that it suspended acute and emergency medical services at OVMC at 11:59 p.m. on September 4, 2019.

**ALECTO HEALTHCARE SERVICES
WHEELING LLC**

By Counsel,

SPILMAN THOMAS & BATTLE, PLLC

/s/ Kevin L. Carr

Kevin L. Carr (WV Bar # 6872)
Chelsea E. Thompson (WV Bar #12565)
Spilman Thomas & Battle, PLLC
300 Kanawha Boulevard, East
Charleston, WV 25301
Telephone: 304.340.3800
Fax: 304.340.3801
E-mail: kcarr@spilmanlaw.com
E-mail: cthompson@spilmanlaw.com

Michael S. Garrison (WV Bar # 7161)
48 Donley Street, Suite 800 (Zip: 26501)

P. O. Box 615
Morgantown, WV 06507-0615
Telephone: 304.291.7920
Fax: 304.291.7979
E-mail: mgarrison@spilmanlaw.com